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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,830	10/18/2000	Manfred Elzenbeck	1752/49096	5406

7590                    07/23/2002  
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Washington, DC 20005

EXAMINER
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VU, STEPHEN A

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/622,830</b>	Applicant(s) <b>Elzenbeck</b>
	Examiner <b>Stephen Vu</b>	Art Unit <b>3636</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on May 14, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 15-33, 42, and 43 is/are pending in the application.

4a) Of the above, claim(s) 29-33 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 15-28, 42, and 43 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 8, line 13, element 4a is stated to be "outer edges". However, on page 8, line 4, element 4a is mentioned to be "outer contours".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker.

Baker shows a lounge chair, as illustrated in Figures 2-5, comprising a frame having longitudinal and transverse bars (1-4) with spring elements (D) held by the frame. The spring elements being an elastic textile structure held under prestress between longitudinal bars and forming a supporting surface covering the frame. The textile structure is made of synthetic threads. A first prestress of the textile structure at right angle to the longitudinal bars in a first

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section is different from a second prestress of the textile structures at a right angle to the longitudinal bars in a second section.

With claim 16, outer contours (23,24,25,26) of the textile structure are held under prestress at the longitudinal bars and at the transverse bars.

With claim 17, supports (4-5) are provided beneath the textile structure.

With claim 18, the supports (4-5) are attached to rails which are movable in a direction of the longitudinal bars.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 19-22 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Abu-Isa et al.

Baker discloses the claimed invention except for employing cushions on the textile structure. Abu-Isa et al teach the placement of cushions (16) on the textile structure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place cushions on the textile structure of Baker's chair as taught by Abu-Isa et al, in order to provide soft comfort support to the user's body.

7. Claim 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Bartz.

Baker discloses the claimed invention except for the longitudinal bars to be foldable and have articulated axles. Bartz teaches a foldable mattress support comprising an articulated axle (24) for allowing the head section (14) to be pivoted relative to foot section (15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an articulated axle (24) of Bartz's invention in lieu of the cross bar of Baker's chair in order to allow the backrest of the chair to be pivoted relative to the seat section.

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***Remarks***

The examiner has reviewed and considered the applicant's comments in the Amendment, filed on May 14, 2002. Based on an updated search of the application, the examiner has decided to issue a new ground of rejections. Therefore, this Office action has been made Non-final.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Wunderlich, and Hobson are cited as showing similar types of lounge chair.
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stephen Vu, whose telephone number is (703) 308-1378.



Stephen Vu  
Patent Examiner  
July 18, 2002



Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600